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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,037	06/06/2000	David S. Litman	068068.0103	9664

7590 06/03/2003

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EXAMINER

DIXON, THOMAS A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/589,037

Applicant(s)

LITMAN ET AL.

Examiner

Thomas A. Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's arguments regarding the 101 and 112 rejections are convincing. Further, the arguments regarding Priceline are convincing. A new rejection appears below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-3, 6-7, 11-14, 17-18, 23-25, 28, 32-34, 37, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tagawa (5,732,398) in view of Bianco (5,047,64), Allard et al (6,249,773), or Tracy et al (6,550,672).

As per Claim 1, 12, 23, 32.

Tagawa discloses:

- a hotel/item master database operable to store information associated with one or more hotels/items, see figure 5a (308);
- an inventory database operable to store room/item availability on one or more dates and price data, see figure 2c (124);
- a reservation engine, see figure 2c (138):
 - receive hotel/item availability request, see figure 5a (304);
 - access the hotel/item master database and the inventory database to obtain information associated with the request, see
 - determine one or more hotels/items that meet the parameters in response to obtaining the information from the hotel master database and the inventory database, see column 12, lines 45-59;
 - communicate a list of the hotels/items meeting the parameters of the request, see figure 5a (308);
 - receive a request for a hotel reservation/item, see figure 5b (314) and column 13, lines 18-25;
 - create a reservation/request according to the request, see figure 5b (318) and column 13, lines 18-25.

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Tagawa further discloses allowing for selecting hotels/items by type (budget, mid-range, and deluxe) that is seen to be offer generic lodgings, but does not specifically disclose that the list includes a generic hotel/item.

Bianco teaches presentation shopping lists including generic items, see column 3, line 14 – column 4, line 8, Allard et al teaches presentation options for searching by brand name, product type, cost and on-sale status, see column 3, lines 33-46 and displaying generic items, see figure 2 and Tracy et al ('672) teaches presentation options that include the display of generic brand alternatives, see column 9, lines 24-30, for the benefit of shopper convenience.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide a generic list of available rooms/items in the invention of Tagawa as taught by Bianco, Allard et al, or Tracy et al for the benefit of giving the provider so as not to diminish the trademark/reputation of the hotel, yet maximize bookings/sales.

As per Claim 2, 13, 24, 33.

Tagawa further discloses receive a request for a description of a generic hotel/item and communicate a description of the hotel/item, see figure 5a (310, 312).

As per Claim 3, 14, 25, 34.

Tagawa further discloses communicating a specific description of the hotel at which a reservation has been created, see figure 5b (322).

As per Claim 6, 17, 28, 37.

Tagawa does not specifically disclose a discounted price.

Bianco (614) teaches specially priced items for the benefit of providing better value to the customer, see column 4, lines 1-8.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a database with specially priced items as taught by Bianco ('614) for the benefit of priding better balue to the customer.

As per Claim 7, 18.

Tagawa further discloses availability data, see figure 5a (304).

As per Claim 11, 22, 40.

Tagawa further discloses:

the reservation engine is coupled to a call center, the call center coupled to a telephone network and operable to receive calls from telephone users, see column 13, lines 2-10, column 16, lines 46-54, column 17, lines 21-25 and figure 1 (34);

the reservation engine further operable to receive hotel availability request, see figure 5a (304);

communicate the list of hotels, see figure 5a (308).

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3. Claims 4-5, 8-9, 15-16, 19-20, 26-27, 29, 35-36, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tagawa (5,732,398) in view of Bianco (5,047,64), Allard et al (6,249,773), or Tracy et al (6,550,672) further in view of Schneider et al (5,832,452).

As per Claim 4, 15, 26, 35, 38.

Tagawa does not specifically disclose that the data includes the name and a description of a hotel/item.

Schneider et al teaches a hotel/item name and description, see figure 7 for the benefit of providing users with data regarding a hotel to assist in making a decision regarding lodgings.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a details listing as taught by Schneider et al in the invention of Tagawa for the benefit of providing users with data regarding a hotel/item to assist in making a decision regarding lodgings/purchases.

As per Claim 5, 16, 27, 36.

Tagawa does not specifically disclose that the data includes the name and a description of a hotel/item.

Schneider et al teaches a hotel/item name and description, see figure 7 for the benefit of providing users with data regarding a hotel to assist in making a decision regarding lodgings.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a details listing as taught by Schneider et al in the invention of Tagawa for the benefit of providing users with data regarding a hotel/item to assist in making a decision regarding lodgings/purchases.

As per Claim 8, 19, 29.

Tagawa does not specifically disclose that the data includes the price of the room/item.

Schneider et al teaches providing the price of a hotel room/item, see figure 7 (72a) for the benefit of providing users with data regarding a hotel/item to assist in making a decision regarding lodgings/purchases.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a details listing as taught by Schneider et al in the invention of Tagawa for the benefit of providing users with data regarding a hotel to assist in making a decision regarding lodgings.

As per Claim 9, 20.

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Tagawa does not specifically disclose that the data includes the location of the hotel.

Schneider et al teaches providing the location of a hotel, see figure 7 (72a) for the benefit of providing users with data regarding a hotel to assist in making a decision regarding lodgings.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a details listing as taught by Schneider et al in the invention of Tagawa for the benefit of providing users with data regarding a hotel to assist in making a decision regarding lodgings.

4. Claims 10, 21, 30, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tagawa (5,732,398) in view of Bianco (5,047,64), Allard et al (6,249,773), or Tracy et al (6,550,672) further in view of Isaacson et al (WO 00/19351).

As per Claim 10, 21, 30, 39.

Tagawa further discloses the internet, see column 9, lines 60-65.

Tagawa does not specifically disclose the list of communicated as one or more web pages.

Isaacson et al teaches accessing the travel system on the internet using a web browser, see page 10, lines 21-29 and figures 25, 27 and 28 for the benefit of using well known web based protocols.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to communicate the list of hotels of Tagawa using web pages as taught by Isaacson et al for the benefit of using well known web based protocols.

Prior Art Made of Record

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stambaugh and Franz teach about the fleeting 1980s fad of generic products in supermarkets, of which, only generic cigarettes seem to remain, such products would obviously be displayed in any listing of supermarket products as in Bianco (5,047,64), Allard et al (6,249,773), or Tracy et al (6,550,672).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'Thomas A. Dixon', with a stylized flourish at the end.

Thomas A. Dixon
Examiner
Art Unit 3629

May 29, 2003